

ST 05-0140-GIL 12/29/2005 EXEMPT ORGANIZATIONS

Illinois law requires a Certificate of Resale to contain the information set out in 86 Ill. Adm. Code 130.1405. This letter also discusses noncompetitive sales made by exempt organizations under 86 Ill. Adm. Code 130.2005(a)(3)(B)(iv). (This is a GIL.)

December 29, 2005

Dear Xxxxx:

This letter is in response to your letter dated May 3, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am respectfully requesting a legal opinion on the transactions described in this letter. ABC Library Systems is a unit of government under the Illinois State Library. Funding for Illinois Library Systems is provided through the Illinois State Library and the Secretary of State with funds appropriated by the Illinois General Assembly. ABC is one of nine regional library systems in Illinois, each providing resource sharing services to participating libraries in its region.

ABC has purchased 'Libraries Matters' rubber bracelets from a manufacturer (sample enclosed). We have sold them to libraries throughout the United States. Our intention is for the libraries that purchase the bracelets to resell them at a higher rate (\$3.00 per bracelet) and raise funds to help support library projects (purchasing new books, summer reading programs, children's literacy, etc.).

ABC has submitted a revised REG-1 with the Illinois Dept of Revenue (IDR) because we are reselling the bracelets. Although the libraries in Illinois who are purchasing the bracelets have a tax exempt status, I'm not certain about how exactly these transactions relate to the IDR regulations.

Question 1 - Are the libraries in the state (public, school, academic) included in 'educational organizations' in Title 86, Part 130, Section 130.2005, Sub-section 3 - Noncompetitive Sales?

Question 2 - Would the sale of these bracelets (from the libraries to the end users) qualify as the 'dominant motive of most transferees of the items sold must be the making of a charitable contribution, with the transfer of property being merely incidental and secondary to the dominant purpose of making a gift to the charity' (from Title 86, Part 130, Section 130.2005, Sub-section 3 - Noncompetitive Sales A) iv))?

Thank you for your assistance in helping me to understand the IDR regulations. Any additional information you could provide on this topic would be appreciated. If you have questions, I can be reached #.

DEPARTMENT'S RESPONSE

The type of certification required to document an exempt sale will depend upon the type of exemption being claimed. Illinois law requires a Certificate of Resale to contain the information set out in 86 Ill. Adm. Code 130.1405. Other state's certificates are not allowed unless they contain the necessary information as set out in Section 130.1405. Please note that the purchaser must have an Illinois registration number to properly complete a Certificate of Resale. Blanket Certificates of Resale are allowed and the Department recommends that they be renewed no less frequently than every 3 years.

Organizations that make application to the Department and are determined to be exclusively religious, educational, or charitable, receive an exemption identification "E- number." See 86 Ill. Adm. Code 130.2007. These E-numbers are valid for five years from issue date and this information is stated on the letter that issues the exemption. This number evidences that this State recognizes that the organization qualifies as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of its organizational purpose. Sales to a governmental body are subject to tax unless the governmental body has an active exemption identification "E-number." See 86 Ill. Adm. Code 130.2080. If an organization or governmental body does not have an "E" number, then its purchases are subject to tax. Only sales to the organization or governmental body holding the "E" number are exempt, not sales to individual members of the organization. Sales to an exempt entity holding an E-number may be documented by retaining a copy of the exemption letter or by recording the entity's E-number in the sellers books and records.

Sales of items such as the bracelets, from exempt organizations to end users, would most likely qualify as exempt noncompetitive sales under 86 Ill. Adm. Code 130.2005(a)(3)(B)(iv) wherein "the reasonably ascertainable dominant motive of most transferees of the items sold must be the making of a charitable contribution, with the transfer of property being merely incidental and secondary to the dominant purpose of making a gift to the charity."

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

MPM:msk